

A.G. Contract No. KR99 2434TRN  
ADOT ECS File No. JPA 99-163  
Project No. TEA-ASU-0 (2) P  
TRACS No.: SL426 01C  
Section: Spence Avenue Multi-Use  
Path Enhancement Project

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE DEPARTMENT OF TRANSPORTATION  
AND  
ARIZONA STATE UNIVERSITY

THIS AGREEMENT is entered into 2 May, 2000, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, between agencies of the State of Arizona, to wit; the DEPARTMENT OF TRANSPORTATION (the "DOT") and the ARIZONA BOARD OF REGENTS, acting for and on behalf of ARIZONA STATE UNIVERSITY (the "University").

I. RECITALS

1. The DOT is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement on behalf of the DOT.
2. The University is empowered by Arizona Revised Statutes Section 15-1626 to enter into this agreement and has delegated to the undersigned authority to execute this agreement on behalf of the University.
3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the work such as is outlined herein.
4. Such project has been selected by the University and submitted to the Federal Highway Administration (FHWA) for its approval.
5. The only interest of the DOT in the project is in the acquisition of federal funds for the use and benefit of the University by reason of federal law and regulations under which funds for the project are authorized to be expended.
6. The University, in order to obtain federal funds for the design of the project, is willing to provide funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.
7. The work embraced in this agreement and the estimated cost is as follows: Spence Avenue Multi-Use Paths.

Federal Funds  
University Funds @ 5.7%

\$124,000.00  
\$ 7,068.00

NO 23959  
Filed with the Secretary of State  
Date Filed: 05/02/00  
Betsy Gayles  
Secretary of State  
By Dick D. Haeneveld

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The DOT shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for design.

If such a project is approved for design by FHWA and the funds are available for the project, the University with the aid and consent of FHWA will proceed with the design and construction of the project to be performed, completed, accepted and paid for in accordance with the requirements of FHWA and the Highways Division, Arizona Department of Transportation. The DOT will enter into a Project Agreement with FHWA covering the work embraced in said contract and will request the maximum federal funds available.

2. Prior to the commencement of work, the University shall set aside sufficient funds in an amount necessary to match federal funds in the ratio required.

3. The DOT will reimburse the University with federal funds for design work addressed under this agreement at the maximum rate allowed by the FHWA of the project cost.

4. The University will provide any required preliminary engineering and planning studies, the environmental and planning studies, the environmental analysis and design of the project. As required by the FHWA, the DOT will provide review of the project plans, studies and related documents, and when appropriate provide comments which will be incorporated into the documents.

5. The University may request the DOT, as authorized agent for the University, with University prior review and approval, and all at University expense, to perform certain work and prepare certain documents required by the Federal Highway Administration to qualify certain enhancement, highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such work may consist of, but is not specifically limited to, the review and approval of the University prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the University, and at no cost to the DOT) and such other related tasks essential to the achievement of the objectives of this agreement.

6. Should some unforeseen conditions or circumstances increase the cost of said work required, by a change in the extent or scope of the work called for in this agreement, the DOT shall not be obligated to incur any expenditure in the project.

## III. MISCELLANEOUS PROVISIONS

1. The DOT assumes no financial obligation or liability under this agreement. The University assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that, to the extent permitted by State law, any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the University.

2. This agreement shall remain in force and effect until completion of the work herein embraced.
3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38.511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.
6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.
7. All notices or demands upon any part to this agreement relating to the agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 W. 17th Avenue - 616E  
Phoenix, Arizona 85007

Arizona State University  
Vice Provost for Administrative Services  
PO Box 872303  
Tempe, Arizona 85287-2303


8. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination and affirmative action.
9. The parties recognize that performance by ASU under this Agreement may be dependent upon the appropriation of funds by the State Legislature of Arizona. Should the Legislature at any time fail to appropriate the necessary funds for such performance, then, by written notice to the DOT, ASU may cancel this Agreement.

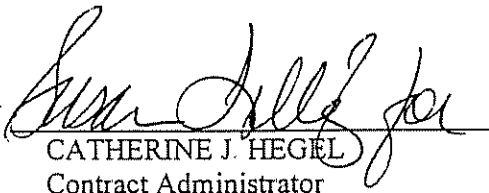
IN WITNESS THEREOF, the parties have executed this agreement the day and year first above written.

STATE OF ARIZONA

THE ARIZONA BOARD OF REGENTS  
Acting for and on behalf of  
ARIZONA STATE UNIVERSITY

DEPARTMENT OF TRANSPORTATION

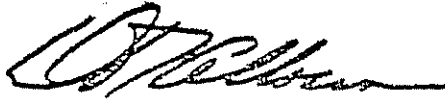
BY   
MERVYN HARRISON  
Vice Provost for Administrative Services

BY   
CATHERINE J. HEGEL  
Contract Administrator

RESOLUTION

BE IT RESOLVED on this 28th day of September 1999, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Arizona State University for the purpose of defining responsibilities for the design, construction and maintenance of the Spence Avenue Multi Use path.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.



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DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director

APPROVAL OF ARIZONA STATE UNIVERSITY ATTORNEY

I have reviewed the above referenced proposed interagency agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the ARIZONA STATE UNIVERSITY, and declare this agreement to be in proper form and within the powers and authority granted to the University under the laws of the State of Arizona.

DATED this 14<sup>th</sup> day of April, 2000, ~~1999~~.

  
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Attorney for ASU



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR99-2434TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED April 25, 2000.

JANET NAPOLITANO  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:et/623507

Enc.